

receipts with the county auditor, and shall return one by mail on the day of its reception to the clerk of the town, city, or school district, or special district to which such payment was made, who. The clerk shall preserve the same receipt in his office. Upon written request of the state, a municipal corporation or other public body, the county treasurer is authorized and directed to shall, to the extent practicable, make such partial payments of amounts collected periodically in advance of final settlements as may be practicable the next settlement and distribution. Accompanying each payment to the state treasurer or treasurer of any town, city, or school district shall be a statement prepared by the county treasurer designating the years for which taxes included in the payment were collected and, for each year, the amount of such the taxes and any penalties thereon. The county treasurer shall upon written request of the state, a municipal corporation or other public body pay at least 70 percent of the estimated collection within 30 days after the settlement date. He shall pay the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the settlement date, provided, however, that after 45 days interest shall accrue at a rate of eight percent per annum to the credit of and shall be paid to the state, municipal corporation or other body. Interest shall be payable upon appropriation from the general revenue fund of the county and, if not paid, may be recovered by the state, municipal corporation, or other body, in a civil action.

Sec. 4. **EFFECTIVE DATE.** This act is effective the day following final enactment.

Approved March 31, 1980

CHAPTER 419—S.F.No. 1807

An act relating to taxation; income; property tax refund; deleting obsolete and unnecessary provisions and references; amending Minnesota Statutes 1978, Sections 290.03; 290.07, Subdivision 4; 290.071, Subdivision 1; 290.073; 290.077, Subdivision 4; 290.08, Subdivisions 3, 8 and 13; 290.09, Subdivisions 5, 13 and 25; 290.095, Subdivisions 3 and 8; 290.131, Subdivision 1; 290.18, Subdivision 1; 290.28, Subdivision 3; 290.311, Subdivisions 1 and 2; 290.32; 290.361, Subdivision 2; 290.38; 290.40; 290.49, Subdivision 1; 290.62; 290.65, Subdivisions 2, 7, 9, 13 and 16; 290.92, Subdivisions 2a, 5, 13 and 15; 290.93, Subdivisions 5 and 9; 290.931, Subdivision 1; 290.932, Subdivision 1; 290.936; 290.97; 290.972, Subdivisions 2 and 3; 290A.07, Subdivision 1; Minnesota Statutes, 1979 Supplement, Sections 290.01, Subdivision 20; and 290A.03, Subdivisions 3 and 13; repealing Minnesota Statutes 1978, Sections 290.06, Subdivisions 2b, 3a and 3b; 290.08, Subdivisions 4 and 5; 290.086; 290.087; 290.09, Subdivisions 11 and 20; 290.095, Subdivision 6; 290.31, Subdivision 28; 290.34, Subdivision 4; 290.361, Subdivi-

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sion 4; 290.363; 290.45, Subdivision 2a; 290.49, Subdivision 9; 290.53, Subdivision 6; 290.65, Subdivisions 8, 14 and 15; 290.66; 290.68; 290.69; 290.93, Subdivision 12; 290.932, Subdivision 5; 290.95; 290.96; and 290.972, Subdivision 7.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes, 1979 Supplement, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. **GROSS INCOME.** Except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, The term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) (i) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) (ii) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted

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gross income shall become effective for purposes of this chapter at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

The amendments made to sections 219(c) (3) and 220(c) (4) (extending the time for which a taxpayer is deemed to have made a contribution to an individual retirement account for the taxable year) by section 157(a) of P.L. 95-600 shall be effective for taxable years beginning after December 31, 1977.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

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(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24;

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101;

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses realized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota; and

(14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(15) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c)(1).

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

(1) Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;

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(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to 50 per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes;

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or (ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code of 1954, as amended through December 31, 1977. The maximum amount of this subtraction shall be \$10,000 less the amount by which the individual's federal adjusted gross income exceeds \$17,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$10,000; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$17,000;

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain realized upon a transfer of property to the spouse or

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former spouse of the taxpayer in exchange for the release of the spouse's marital rights:

(9) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later;

(10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60;

(11) The amount of gain on the sale of the taxpayer's residence excluded from the federal gross income of the taxpayer pursuant to section 121 of the Internal Revenue Code of 1954, as amended through December 31, 1978 provided that a taxpayer who elects under that section shall not, for the purpose of this subdivision, also take an exclusion according to the provisions of section 121 of the Internal Revenue Code, as amended through December 31, 1976;

(12) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota; and

(13) The amount of any income earned for personal services rendered prior to the date when the taxpayer became a resident of Minnesota.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance or estate tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. Minnesota Statutes 1978, Section 290.03, is amended to read:

290.03 INCOME TAX; IMPOSITION, CLASSES OF TAXPAYERS. An annual tax for each taxable year, computed in the manner and at the rates herein-after provided, is hereby imposed upon the taxable net income for such year of the following classes of taxpayers:

(1) Domestic and foreign corporations not taxable under section 290.02 which own property within this state or whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both;

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Business within the state shall not be deemed to include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters which are made international for navigation purposes by any treaty or agreement to which the United States is a party;

(2) Resident and non-resident individuals;

(3) Estates of decedents, dying domiciled within or without this state;

(4) Trusts (except those taxable as corporations) however created by residents or non-residents or by domestic or foreign corporations ~~and~~;

(5) ~~Any proprietorship or partnership owning an unincorporated business enterprise which has elected under the provisions of section 1361 of the Internal Revenue Code of 1954, as amended through December 31, 1976 to be taxed as a domestic corporation shall for purposes of this chapter be deemed to be a corporation and subject to tax as any other corporation under the provisions of this section or section 290.02 depending upon its manner of operation.~~

~~In the event that such election is revoked or otherwise terminated, the tax consequences of such revocation or termination, for the purposes of this chapter, shall be determined in accordance with the provisions of section 1361 of the Internal Revenue Code of 1954, as amended through December 31, 1976 and other applicable provisions of said code and regulations .~~

Sec. 3. Minnesota Statutes 1978, Section 290.07, Subdivision 4, is amended to read:

Subd. 4. **REFUNDED INCOME.** If (a) an item was included in gross income for a prior taxable year (or years) because it appeared that the taxpayer had an unrestricted right to such item, and (b) a deduction is allowable for the taxable year because it was established after the close of such prior taxable year (or years) that the taxpayer did not have an unrestricted right to such item or to a portion of such item, and (c) the amount of such deduction exceeds \$3,000, then the tax imposed by this chapter for the taxable year shall be the lesser of the following: (d) the tax for the taxable year computed with such deduction; or (e) an amount equal to (1) the tax for the taxable year computed without such deduction, minus (2) the decrease in tax under this chapter for the prior taxable year (or years) which would result solely from the exclusion of such item (or portion thereof) from gross income for such prior taxable year (or years).

If the decrease in tax ascertained under part (e) (2) of the preceding paragraph exceeds the tax imposed by this chapter for the taxable year (computed without the deduction) such excess shall be considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year, and shall be refunded or credited in the same manner as if it were an overpayment for such taxable year. The preceding paragraph does not apply to any deduction allowable with respect to an item which was included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer (or other property of a kind which would properly have been included in the inventory of the taxpayer if on hand at the close of the prior taxable year) or property held by the

taxpayer primarily for sale to customers in the ordinary course of his trade or business. This paragraph shall not apply if the deduction arises out of refunds or repayments made by a regulated public utility (as defined in section 1503(e) 7701(a)(33) of the Internal Revenue Code of 1954 as amended through December 31, 1976 without regard to ~~paragraph (2)~~ the limitation contained in the last two sentences thereof) if such refunds or repayments are required to be made by the government, political subdivision, agency, or instrumentality referred to in such section.

Sec. 4. Minnesota Statutes 1978, Section 290.071, Subdivision 1, is amended to read:

290.071 INCOME FROM UNITED STATES BONDS, LONG TERM PROJECTS, INVENTION OR ARTISTIC WORK, BACK PAY, BAD DEBTS, CONTRACT DAMAGES. Subdivision 1. **UNITED STATES BONDS.** In the case of obligations of the United States issued at a discount and redeemable for fixed amounts increasing at stated intervals, a corporate taxpayer may at its election treat such increase as income for any taxable year beginning after December 31, 1940, notwithstanding the fact that such taxpayer files its returns on the cash basis.

Sec. 5. Minnesota Statutes 1978, Section 290.073, is amended to read:

290.073 GROSS INCOME, COMMODITY CREDIT LOANS. Amounts received as loans from the Commodity Credit Corporation shall, at the election of the taxpayer, be considered as income, and included in gross income for the taxable year in which received. If the taxpayer so elects, then the method of computing income so adopted shall be adhered to with respect to all subsequent taxable years unless with the approval of the commissioner a change to a different method is authorized. ~~This section shall apply to 1942 and subsequent taxable years.~~

Sec. 6. Minnesota Statutes 1978, Section 290.077, Subdivision 4, is amended to read:

Subd. 4. DEDUCTION FOR FEDERAL ESTATE TAX AND MINNESOTA ESTATE TAX. (1) ALLOWANCE OF DEDUCTION; FEDERAL ESTATE TAX. (A) GENERAL RULE. A person who includes an amount in gross income under this section, shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the estate tax attributable to the net value for estate tax purposes of all the items described in subdivision 1, as the value for estate tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for estate tax purposes of all the items described in subdivision 1.

(B) ESTATES AND TRUSTS. In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) of this subdivision shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subdivision 1, which is properly paid, credited, or

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to be distributed to the beneficiaries during the taxable year. This subparagraph shall apply to the same taxable years, and to the same extent, as is provided in section 290.23, subdivision 5.

(2) **METHOD OF COMPUTING DEDUCTION.** For purposes of paragraph (1) of this subdivision

(A) The term "estate tax" means the tax imposed on the estate of the decedent or any prior decedent under the Internal Revenue Code of 1954, as amended through December 31, 1976 section 2001 or 2101, reduced by the credits against such tax.

(B) The net value for estate tax purposes of all the items described in subdivision 1, shall be the excess of the value for estate tax purposes of all the items described in subdivision 1, over the deductions from the gross estate in respect of claims which represent the deductions and credit described in subdivision 2. Such net value shall be determined with regard to the provisions of the Internal Revenue Code of 1954, as amended through December 31, 1976, section 421~~(d)~~ (6) ~~(B)~~ 421(c)(2), relating to the deduction for estate tax with respect to restricted stock options.

(C) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate such net value.

(3) **ALLOWANCE OF DEDUCTION; MINNESOTA ESTATE TAX.** (A) **GENERAL RULE.** A person who includes an amount in gross income under this section, shall be allowed, for the same taxable year, as a deduction an amount which bears the same ratio to the Minnesota inheritance or estate tax attributable to the net value for inheritance or estate tax purposes of all the items described in subdivision 1, as the value for inheritance or estate tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for inheritance or estate tax purposes of all the items described in subdivision 1.

(B) **ESTATES AND TRUSTS.** In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) of this subdivision shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subdivision 1, which is properly paid, credited, or to be distributed to the beneficiaries during the taxable year. This subparagraph shall apply to the same taxable years, and to the same extent as is provided in section 290.23, subdivision 5.

(4) **METHOD OF COMPUTING DEDUCTION.** For purposes of paragraph (3) of this subdivision

(A) (i) The term "inheritance tax" means the tax imposed on the ~~estate of the decedent or any prior decedent under chapter 294~~ estates of decedents dying before January 1, 1980, reduced by the credits against such tax; (ii) The term "estate tax" means the tax imposed on the estates of decedents dying on or after January 1, 1980, reduced by the credits against the tax.

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(B) The net value for inheritance or estate tax purposes of all the items described in subdivision 1, shall be the excess of the value for inheritance or estate tax purposes of all the items described in subdivision 1, over the deductions from the gross inheritance or gross estate in respect of claims which represent the deductions and credit described in subdivision 2.

(C) (i) The inheritance tax attributable to such net value shall be an amount equal to the excess of the inheritance tax over the inheritance tax computed without including in the gross inheritance such net value; (ii) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate the net value.

Sec. 7. Minnesota Statutes 1978, Section 290.08, Subdivision 3, is amended to read:

Subd. 3. **CERTAIN DEATH BENEFITS.** ~~(a) Proceeds of Life Insurance Contracts Payable by Reason of Death:~~

~~(1) General rule. Except as otherwise provided in paragraph (2) and in paragraph (d), gross income does not include amounts received (whether in a single sum or otherwise) under a life insurance contract, if such amounts are paid by reason of the death of the insured.~~

~~(2) Transfer for valuable consideration. In the case of a transfer for a valuable consideration, by assignment or otherwise, of a life insurance contract or any interest therein, the amount excluded from gross income by paragraph (1) shall not exceed an amount equal to the sum of the actual value of such consideration and the premiums and other amounts subsequently paid by the transferee. The preceding sentence shall not apply in the case of such a transfer~~

~~(A) if such contract or interest therein has a basis for determining gain or loss in the hands of a transferee determined in whole or in part by reference to such basis of such contract or interest therein in the hands of the transferor, or~~

~~(B) if such transfer is to the insured, to a partner of the insured, to a partnership in which the insured is a partner, or to a corporation in which the insured is a shareholder or officer.~~

~~(b) Employees' Death Benefits:~~

~~(1) General rule. Gross income does not include amounts received (whether in a single sum or otherwise) by the beneficiaries or the estate of an employee, if such amounts are paid by or on behalf of an employer and are paid by reason of the death of the employee.~~

~~(2) Special rules for paragraph (1):~~

~~(A) \$5,000 Limitation. The aggregate amounts excludable under paragraph (1) with respect to the death of any employee shall not exceed \$5,000.~~

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(B) Nonforfeitable rights. Paragraph (1) shall not apply to amounts with respect to which the employee possessed, immediately before his death, a nonforfeitable right to receive the amounts while living. This subparagraph shall not apply to total distributions payable (as defined in section 402(a) (3) of the Internal Revenue Code of 1954, as amended through December 31, 1976) which are paid to a distributee within one taxable year of the distributee by reason of the employee's death

(i) by a stock bonus, pension, or profit-sharing trust described in section 401(a) of the Internal Revenue Code of 1954, as amended through December 31, 1976 which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, as amended through December 31, 1976.

(ii) under an annuity contract under a plan which meets the requirements of paragraphs (3), (4), (5), and (6) of section 401(a) of the Internal Revenue Code of 1954, as amended through December 31, 1976, or

(iii) under an annuity contract purchased by an employer which is an organization referred to in section 503(b) (1), (2), or (3) of the Internal Revenue Code of 1954, as amended through December 31, 1976 and which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only with respect to that portion of such total distributions payable which bears the same ratio to the amount of such total distributions payable which is (without regard to this clause (b)) includible in gross income, as the amounts contributed by the employer for such annuity contract which are excludable from gross income under section 403(b) of the Internal Revenue Code of 1954, as amended through December 31, 1976 bear to the total amounts contributed by the employer for such annuity contract.

(C) Joint and survivor annuities. Paragraph (1) shall not apply to amounts received by a surviving annuitant under a joint and survivor's annuity contract after the first day of the first period for which an amount was received as an annuity by the employee (or would have been received if the employee had lived.)

(D) Other annuities. In the case of any amount to which subdivision 4 (relating to annuities, etc.) applies, the amount which is excludable under paragraph (1) (as modified by the preceding subparagraphs of this paragraph) shall be determined by reference to the value of such amount as of the day on which the employee died. Any amount so excludable under paragraph (1) shall, for purposes of subdivision 4, be treated as additional consideration paid by the employee.

(e) Interest. If any amount excluded from gross income by subsection (a) or (b) is held under an agreement to pay interest thereon, the interest payments shall be included in gross income.

(d) Payment of Life Insurance Proceeds at a Date Later Than Death.

(1) General Rule. The amounts held by an insurer with respect to any beneficiary shall be prorated (in accordance with such regulations as may be

prescribed by the commissioner) over the period or periods with respect to which such payments are to be made. There shall be excluded from the gross income of such beneficiary in the taxable year received

(A) any amount determined by such proration; and

(B) in the case of the surviving spouse of the insured; that portion of the excess of the amounts received under one or more agreements specified in paragraph (2) (A) (whether or not payment of any part of such amounts is guaranteed by the insurer) over the amount determined in subparagraph (A) of this paragraph which is not greater than \$1,000 with respect to any insured. Gross income includes; to the extent not excluded by the preceding sentence; amounts received under agreements to which this subsection applies:

(2) Amount held by an insurer. An amount held by an insurer with respect to any beneficiary shall mean an amount to which subsection (a) applies which is

(A) held by any insurer under an agreement provided for in the life insurance contract, whether as an option or otherwise; to pay such amount on a date or dates later than the death of the insured; and

(B) is equal to the value of such agreement to such beneficiary

(i) as of the date of death of the insured (as if any option exercised under the life insurance contract were exercised at such time); and

(ii) as discounted on the basis of the interest rate and mortality tables used by the insurer in calculating payments under the agreement.

(3) Surviving spouse. For purposes of this subsection, the term "surviving spouse" means the spouse of the insured as of the date of death, including a spouse legally separated but not under a decree of absolute divorce.

(4) Application of subsection. This subsection shall not apply to any amount to which subsection (c) is applicable.

(e) Maintenance, etc., Payments.

(1) In general. This section shall not apply to so much of any payment as is includible in the gross income of the wife under section 290.09, subdivision 14 (relating to maintenance) or section 290.072 (relating to income of any estate or trust in case of divorce, etc.) The exclusion of certain death benefits shall be determined in accordance with the provisions of section 101 of the Internal Revenue Code of 1954 as amended through December 31, 1979.

Sec. 8. Minnesota Statutes 1978, Section 290.08, Subdivision 8, is amended to read:

Subd. 8. **INTEREST FROM UNITED STATES.** Interest upon obligations of the United States, its possessions, its agencies, or its instrumentalities, so far as immune from state taxation under federal law ~~is provided; that salaries, wages, fees, commissions or other compensation received from the United States, its possessions, its agencies, or its instrumentalities shall be excluded from gross~~

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income for all taxable years ending prior to January, 1939; provided, that salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities for taxable years ending prior to January 1, 1939, shall be excluded only to the extent that salaries, wages, commissions, fees and other compensation received from the state of Minnesota, its political or governmental subdivisions, its municipalities, or its governmental agencies or instrumentalities for that year are excluded from gross income under the federal revenue acts; provided, that salaries, wages, fees, commissions, or other compensation received from the United States, its possessions, its agencies, or its instrumentalities by federal employees residing in "federal areas" shall be excluded from gross income for all taxable years ending prior to January 1, 1941;

Sec. 9. Minnesota Statutes 1978, Section 290.08, Subdivision 13, is amended to read:

Subd. 13. **CERTAIN EXEMPTIONS INAPPLICABLE TO CORPORATIONS.** Subdivisions 4, 5, 10 and 11 shall not apply to corporations and subdivisions 7 and 8 shall not apply to corporations taxable under section 290.02 or under section 290.361.

Sec. 10. Minnesota Statutes 1978, Section 290.09, Subdivision 5, is amended to read:

Subd. 5. **LOSSES.** (a) **GENERAL RULE.** There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) **AMOUNT OF DEDUCTION.** For purposes of paragraph (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in sections 290.14 and 290.15 for determining the loss from the sale or other disposition of property.

(c) **LIMITATION OF LOSSES OF INDIVIDUALS.** In the case of an individual, the deduction under paragraph (a) shall be limited to

- (1) Losses incurred in a trade or business;
- (2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and
- (3) Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft to the extent they are deductible pursuant to the provisions of section 165 (c) (3) of the Internal Revenue Code of 1954, as amended through December 31, 1976. No loss described in this paragraph shall be allowed if, at the time of the filing of the return, such loss has been claimed for inheritance or estate tax purposes.

(d) **WAGERING LOSSES.** Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) **THEFT LOSSES.** For purposes of paragraph (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) **CAPITAL LOSSES.** Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in section 290.16.

(g) **WORTHLESS SECURITIES.** (1) **GENERAL RULE.** If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this chapter, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) **SECURITY DEFINED.** For purposes of this paragraph, the term "security" means:

(A) A share of stock in a corporation;

(B) A right to subscribe for, or to receive, a share of stock in a corporation; or

(C) A bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) **SECURITIES IN AFFILIATED CORPORATION.** For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if:

(A) At least 95 percent of each class of its stock is owned directly by the taxpayer, and

(B) More than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental from properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities. In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stock and securities shall be taken into account only to the extent of gains therefrom.

(h) **DISASTER LOSSES.** (1) Notwithstanding the provisions of (a), any loss

(A) attributable to a disaster which occurs during the period following the close of the taxable year and on or before the time prescribed by law for filing the income tax return for the taxable year (determined without regard to any extension of time), and

(B) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under section 1855-1855g of Title 42, U.S.C.A., at the election of the taxpayer, may be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Such election may be made only if a similar election has been made under the provisions of Section 165(h) of the Internal Revenue Code of 1954, as amended through December 31, 1976 for federal income tax purposes. Such deduction shall not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred. If an election is made under this paragraph, the casualty resulting in the loss will be deemed to have occurred in the taxable year for which the deduction is claimed.

(2) The commissioner is authorized to prescribe regulations providing the time and manner of making an election to claim a disaster loss under this clause ~~;~~ provided, however, that such an election relating to a disaster loss occurring during the first three and one-half months of the year 1965 may be made no later than December 31, 1965 .

(i) **ELECTION.** In lieu of the deduction allowed by (a) or (h) any loss not compensated for by insurance or otherwise:

(1) Attributable to storm or other natural causes or fire, may, at the election of the taxpayer, be claimed as a deduction in the taxable year in which said loss is sustained or in the preceding taxable year.

(2) In the event that under the provisions of this paragraph, a taxpayer claims the same disaster loss deduction or a net operating loss deduction resulting from the inclusion of a casualty loss in the calculation of such deduction in different taxable years for state and federal purposes, appropriate modifications shall be allowed or required for taxable years affected in order to prevent duplication or omission of such deduction.

(3) The commissioner is authorized to prescribe regulations providing the time and manner to make an election to claim a loss under the provisions of this paragraph and for the filing of an amended return or claim for refund.

Sec. 11. Minnesota Statutes 1978, Section 290.09, Subdivision 13, is amended to read:

Subd. 13. **AMORTIZATION OF BOND PREMIUMS.** An allowance ~~for all taxable years beginning after December 31, 1954;~~ for amortization of bond premiums in accordance with the provisions of section 171 of the Internal Revenue Code of 1954, as amended through December 31, 1976; adapted to the provisions of this chapter under regulations issued by the commissioner, but only to the extent that such deduction has not been allowed under any other section of this chapter.

Sec. 12. Minnesota Statutes 1978, Section 290.09, Subdivision 25, is amended to read:

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Subd. 25. **EXPLORATION AND DEVELOPMENT EXPENDITURES.** (a) Expenditures paid or incurred during the taxable year for the purposes of ascertaining the existence, location, extent, or quality of any deposit of copper, nickel or copper-nickel ore or other mineral, and paid or incurred before the beginning of the development stage of the mine or deposit shall be allowed as a deduction in computing taxable income in accordance with and to the extent provided in ~~section 615 and~~ section 617 of the Internal Revenue Code of 1954, as amended through December 31, 1976.

(b) Expenditures paid or incurred during the taxable year for the development of a copper, nickel or copper-nickel mine or other natural deposit (other than an oil or gas well) if paid or incurred after the existence of ores or minerals in commercially marketable quantities has been disclosed shall be allowed as a deduction in computing taxable income in accordance with and to the extent provided in section 616 of the Internal Revenue Code of 1954, as amended through December 31, 1976. This section shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowance for depreciation provided in ~~Minnesota Statutes 1965,~~ section 290.09, subdivision 7, but allowances for depreciation shall be considered, for purposes of this section, as expenditures.

Sec. 13. Minnesota Statutes 1978, Section 290.095, Subdivision 3, is amended to read:

Subd. 3. **CARRYOVER AND CARRYBACK.** (a) Except as provided in subdivision 8, a net operating loss for any taxable year ~~commencing on or after January 1, 1957~~ shall be:

(1) A net operating loss carryback to each of the three taxable years preceding the taxable year of such loss, and

(2) A net operating loss carryover to each of the five taxable years following the taxable year of such loss ~~provided, however,~~

~~(3) That a net operating loss incurred in a taxable year commencing prior to December 31, 1956, shall be computed under this section, but the net operating loss so determined shall be a carryover to each of the five taxable years following the taxable year of such loss, which year of loss shall not be prior to a taxable year ending in the year 1952. A net operating loss incurred in a taxable year commencing on or after January 1, 1956, may not be carried back to any taxable year commencing prior to December 31, 1956.~~

(b) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which, by reason of subdivision 3, clause (a), such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable net income, adjusted by the modifications specified in subdivision 4, for each of the prior taxable years to which such loss may be carried.

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(c) Where a corporation does business both within and without Minnesota, and apportions its income under the provisions of section 290.19, the net operating loss deduction shall be allowed to the extent of the apportionment ratio of the loss year, or the year to which the loss is carried, whichever is smaller.

Sec. 14. Minnesota Statutes 1978, Section 290.095, Subdivision 8, is amended to read:

Subd. 8. **FOREIGN EXPROPRIATION LOSS.** (a) For the purpose of this chapter, the term "foreign expropriation loss" means, for any taxable year, the sum of the losses sustained by reason of the expropriation, intervention, seizure or similar taking of property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing. For the purpose of the preceding sentence, a debt which becomes worthless shall, to the extent of any deduction allowed under section 290.09, subdivision 6, be treated as a loss.

The portion of the net operating loss for any taxable year attributable to a foreign expropriation loss is the amount of the foreign expropriation loss for such year (but not in excess of the net operating loss for such year.)

(b) In the case of a taxpayer who has a foreign expropriation loss (as defined in (a)) ~~for any taxable year ending after December 31, 1958~~, a portion of the net operating loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the ten taxable years following the taxable year of such loss. This paragraph shall apply only if (1) the foreign expropriation loss (as defined in (a)) for the taxable year equals or exceeds 50 percent of the net operating loss for the taxable year ÷, and (2) in the case of a foreign expropriation loss ~~for a taxable year ending after December 31, 1964~~, the taxpayer elects (at such time and in such manner as the commissioner by regulation prescribes) to have (a) apply and, (3) ~~the case of a foreign expropriation loss for a taxable year ending after December 31, 1958 and before January 1, 1965~~, the taxpayer elects (in such manner as the commissioner by regulation prescribes) on or before December 31, 1966, to have (a) apply .

If a taxpayer makes an election as described above, the new deficiency attributable to such election may be assessed at any time before January 1, 1969 and refund or credit of any overpayment attributable to such election may be made or allowed if claim therefor is filed before January 1, 1969.

(c) In determining the amount of any carryback or carryover of a net operating loss, the amount of the net operating loss deduction for any taxable year shall be determined without regard to that portion of a net operating loss which, under (b) above, may not be carried back to a prior taxable year and if a portion of a net operating loss for the loss year is attributable to a foreign expropriation loss, to which (b) applies, such portion shall be considered as a separate net operating loss for such year to be applied after the other portion of such net operating loss.

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Sec. 15. Minnesota Statutes 1978, Section 290.131, Subdivision 1, is amended to read:

290.131 DISTRIBUTIONS BY CORPORATIONS; EFFECTS ON RECIPIENTS. Subdivision 1. **DISTRIBUTIONS OF PROPERTY.** (a) Except as otherwise provided in this chapter, a distribution of property (as defined in section 290.133, subdivision 2(a)) made by a corporation to a shareholder with respect to its stock shall be treated in the manner provided in clause (c).

(b) Amount distributed:

(1) For purposes of this subdivision, the amount of any distribution shall be:

(A) If the shareholder is not a corporation, the amount of money received, plus the fair market value of the other property received.

(B) If the shareholder is a corporation, the amount of money received, plus whichever of the following is the lesser:

(i) the fair market value of the other property received; or

(ii) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain to the distributing corporation which is recognized under clause (b) or (c) of section 290.132, subdivision 1.

(2) The amount of any distribution determined under paragraph (1) shall be reduced (but not below zero) by:

(A) the amount of any liability of the corporation assumed by the shareholder in connection with the distribution, and

(B) the amount of any liability to which the property received by the shareholder is subject immediately before, and immediately after, the distribution.

(3) For purposes of this subdivision, fair market value shall be determined as of the date of the distribution.

(c) In the case of a distribution to which clause (a) applies:

(1) That portion of the distribution which is a dividend (as defined in section 290.133, subdivision 1) shall be included in gross income.

(2) That portion of the distribution which is not a dividend shall be applied against and reduce the adjusted basis of the stock.

(3) Amount in excess of basis.

(A) Except as provided in subparagraph (B), that portion of the distribution which is not a dividend, to the extent that it exceeds the adjusted basis of the stock, shall be treated as gain from the sale or exchange of property.

(B) That portion of the distribution which is not a dividend, to the extent that it exceeds the adjusted basis of the stock and to the extent that is out of increase in value accrued before January 1, 1933, shall be exempt from tax.

(d) The basis of property received in a distribution to which clause (a) applies shall be:

(1) If the shareholder is not a corporation, the fair market value of such property.

(2) If the shareholder is a corporation, whichever of the following is the lesser:

(A) the fair market value of such property; or

(B) the adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain to the distributing corporation which is recognized under clause (b) or (c) of section 290.132, subdivision 1.

~~(e) Any distribution made by a corporation, which was classified as a personal service corporation under the provisions of the Revenue Act of 1918, or the Revenue Act of 1921, out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 (40 Stat. 1070), or section 218 of the Revenue Act of 1921 (42 Stat. 245), shall be exempt from tax to the distributees.~~

Sec. 16. Minnesota Statutes 1978, Section 290.18, Subdivision 1, is amended to read:

290.18 TAXABLE NET INCOME, ADJUSTED GROSS INCOME; COMPUTATION. Subdivision 1. **TAXABLE NET INCOME.** The taxable net income shall, except insofar as section 290.19 is applicable, be computed by deducting from the gross income assignable to this state under section 290.17 deductions of the kind permitted by section 290.09 in accordance with the following provisions:

(1) Such deductions shall be allowed to the extent that they are connected with and allocable against the production or receipt of such gross income assignable to this state;

(2) That proportion of such deductions, so far as not connected with and allocable against the production or receipt of such gross income assignable to this state and so far as not connected with and allocable against the production or receipt of gross income assignable to other states or countries and so far as not entering into the computation of the net income assignable to this state under section 290.19, shall be allowed which the taxpayer's gross income from sources within this state, as determined under section 290.17, subdivision 2, clauses (1), (2), (3), and (5), bears to his gross income from all sources, including that entering into the computations provided for by section 290.19; provided that taxes of the kind deductible under section 290.09, subdivision 4, shall, so far as within the description of deductions deductible under this clause, be deductible in their

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entirety if paid to the state of Minnesota, or any of its subdivisions authorized to impose such taxes, and thereupon be excluded in making the computation of deductions, as in this clause provided.

Sec. 17. Minnesota Statutes 1978, Section 290.28, Subdivision 3, is amended to read:

Subd. 3. INCOME OF AN ESTATE OR TRUST IN CASE OF DIVORCE.

(1) There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or of legal separation (or who is separated from her husband under a written separation agreement) the amount of the income of any trust which such wife is entitled to receive and which, except for this subdivision, would be includible in the gross income of her husband, and such amount shall not, despite any other provision of this chapter, be includible in the gross income of such husband. This paragraph shall not apply to that part of any such income of the trust which the terms of the decree, written separation agreement, or trust instrument fix, in terms of an amount of money or a portion of such income, as a sum which is payable for the support of minor children of such husband. In case such income is less than the amount specified in the decree, agreement, or instrument, for the purpose of applying the preceding sentence, such income, to the extent of such sum payable for such support, shall be considered a payment for such support.

(2) For purposes of computing the taxable income of the estate or trust and the taxable income of a wife to whom paragraph (1) ~~or section 290.072~~ applies, such wife shall be considered as the beneficiary specified in sections 290.22 to 290.28. A periodic payment ~~under section 290.072~~ of alimony, to any portion of which sections 290.22 to 290.28 applies, shall be included in the gross income of the beneficiary in the taxable year in which under sections 290.22 to 290.28 such portion is required to be included.

Sec. 18. Minnesota Statutes 1978, Section 290.311, Subdivision 1, is amended to read:

290.311 PARTNERSHIP GROSS INCOME. Subdivision 1. **RESIDENT PARTNERS.** (a) Partner's modifications. In determining gross income and Minnesota taxable income of a resident partner, any modification described in section 290.01, subdivision 20 ~~or second paragraph~~, which relates to an item of partnership income, gain, loss or deduction shall be made in accordance with the partner's distributive share, for federal income tax purposes, of the item to which the modification relates.

(b) Character of items. Each item of partnership income, gain, loss, or deduction shall have the same character for a partner under this section which it has for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a partner as if realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(c) Minnesota tax avoidance or evasion. Where a partner's distributive share of an item of partnership income, gain, loss or deduction is determined for federal income tax purposes by special provision in the partnership agreement with respect to such item, and where the effect of such provision is the avoidance or evasion of tax under this section, the partner's distributive share of such item, and any modifications required with respect thereto shall be determined as if the partnership agreement made no special provision with respect to such item.

Sec. 19. Minnesota Statutes 1978, Section 290.311, Subdivision 2, is amended to read:

Subd. 2. **NONRESIDENT PARTNERS.** (a) Portion derived from Minnesota sources. In determining Minnesota adjusted gross income and Minnesota taxable income of a nonresident partner of any partnership, there shall be included only the portion derived from or connected with Minnesota sources of such partner's distributive share of items of partnership income, gain, loss or deduction for federal income tax purposes. The portion of such distributive share of each item which is derived from or connected with Minnesota sources, shall be determined under regulations of the tax commissioner.

(b) Partner's modifications. Any modification described in section 290.01, subdivision 20, ~~second paragraph~~, which relates to an item of partnership income, gain, loss or deduction, shall be made to the extent of the portion derived from or connected with Minnesota sources of the item to which the modification relates.

(c) Alternate methods. The tax commissioner may, on application, authorize the use of such other methods of determining a nonresident partner's portion of the distributive share of partnership items derived from or connected with Minnesota sources, and the modifications related thereto, as may be appropriate and equitable, on such terms and conditions as it may require.

Sec. 20. Minnesota Statutes 1978, Section 290.32, is amended to read:

290.32 TAXES FOR PART OF YEAR, COMPUTATION. When under this chapter a taxpayer is permitted or required to make a return for a fractional part of a year, the tax shall be computed in the same manner as if such fractional part of a year were an entire year, except:

(1) When a taxpayer is permitted to change the basis for reporting his income from a fiscal to a calendar year, he shall make a separate return for the period between the close of his last fiscal year and the following December thirty-first; if the change is from a calendar to a fiscal year, a separate return shall be made for the period between the close of his last calendar year and the date designated as the close of the fiscal year; and if the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. The taxable net income for any such period shall be put on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included in the period for which such separate return is made; and the tax shall be that part of a tax, computed on the taxable net income put on such

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annual basis, less the credit against that taxable net income under the provisions of section 290.21, which the number of months in such period bears to 12 months.

(2) Where any of the enumerated changes in accounting period referred to in clause (1) involve a 52-53 week fiscal year and any such change results in a short period of less than seven days, such short period shall be added to and deemed a part of the following taxable year. If the change results in a short period of seven or more days, but less than 359 days, the taxable net income for any such period shall be placed on an annual basis by multiplying such income by 365 and dividing the result by the same number of days in the short period; and the tax shall be that part of a tax, computed on the taxable net income placed on such annual basis, less the credit against that taxable net income under the provisions of section 290.21, which the number of days in such short period bears to 365 days. Where the short period is 359 days or more, the tax shall be computed in the same manner as if such short period were an entire year. ~~This clause shall apply to taxable years ending after August 16, 1954.~~

Sec. 21. Minnesota Statutes 1978, Section 290.361, Subdivision 2, is amended to read:

Subd. 2. **COMPUTATION OF TAXABLE NET INCOME.** The taxable net income shall be computed in the manner provided by this chapter except that in the case of national and state banks: (a) the rate shall be ~~13.64 percent until January 1, 1974 and 12 percent thereafter~~; (b) the basic date for the purpose of computing gain or loss and depreciation shall be January 1, 1940, instead of January 1, 1933; (c) property consisting of investments in bonds, stocks, notes, debentures, mortgages, certificates, or any evidence of indebtedness, and any property acquired in liquidation thereof when such property is held for investment or for sale, shall not be deemed to be capital assets; and (d) in computing net income there shall be allowable as a deduction from gross income, in addition to deductions otherwise provided for in this ~~act~~ chapter, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from federal income taxes, on the preferred stock of the bank owned by the United States or such instrumentality.

Sec. 22. Minnesota Statutes 1978, Section 290.38, is amended to read:

290.38 JOINT RETURNS OF HUSBAND AND WIFE. A husband and wife may make a single return jointly even though one of the spouses has neither gross income nor deductions. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. If both husband and wife have gross income they may elect to either file a single return jointly or may file separate returns pursuant to this section or as provided in section 290.39, subdivision 2. This election to file a joint or separate returns may be changed within the period provided for the assessment of additional taxes on said return or returns. ~~This election shall be applicable only for taxable years beginning after December 31, 1957.~~ In the event taxpayers desire to change their election, such change shall be done in the manner and on such form as the commissioner shall prescribe by regulation.

No joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year or if the taxable year of either spouse is a fractional part of a year under section 290.32.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the personal representative of his estate; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if (a) no return for the taxable year has been made by the decedent, (b) no personal representative has been appointed, and (c) no personal representative is appointed before the last day prescribed by law for filing the return of the surviving spouse. If a personal representative of the estate of the decedent is appointed after the joint return has been filed by the surviving spouse, the personal representative may disaffirm such joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

If husband and wife determine their federal income tax on a joint return but determine their Minnesota income taxes separately, they shall determine their Minnesota gross income separately as if their federal adjusted gross incomes had been determined separately.

Sec. 23. Minnesota Statutes 1978, Section 290.40, is amended to read:

290.40 ANNUAL RETURN, EXCEPTIONS. The return shall cover a 12-month period, except in the following cases:

(1) The return made by or for any taxpayer who was in existence for less than the whole of a taxable year shall cover that part of the taxable year during which such taxpayer was in existence;

(2) A taxpayer who, in keeping his books, regularly computes his income on the basis of an annual period which varies from 52 to 53 weeks and ends always on the same day of the week, and ends always (a) on whatever date such same day of the week last occurs in a calendar month or (b) on whatever date such same day of the week falls which is nearest to the last day of a calendar month, may, in accordance with regulations prescribed by the commissioner, elect to compute his net income and taxable net income on the basis of such annual period. ~~This paragraph shall apply to taxable years ending after August 16, 1954.~~ In any case in which the effective date or the applicability of any provision of this chapter is expressed in terms of taxable years beginning or ending with reference to a specified date which is the first or last day of a month, a taxable year described herein shall be treated as beginning with the first day of the calendar month beginning nearest to the first day of such taxable year, or as ending with

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the last day of the calendar month ending nearest to the last day such taxable year, as the case may be;

(3) A taxpayer who changes from one taxable year to another shall make a return from the fractional parts of a year, as specified in section 290.32.

Sec. 24. Minnesota Statutes 1978, Section 290.49, Subdivision 1, is amended to read:

290.49 TIME LIMIT ON ASSESSMENT, COLLECTION. Subdivision 1. **ASSESSMENT, GENERALLY.** Except as otherwise provided in this chapter the amount of taxes assessable with respect to all taxable years ending after January 1, 1937, shall be assessed within three and one-half years after the return is filed. Such taxes shall be deemed to have been assessed within the meaning of this section whenever the commissioner shall have determined the taxable net income of the taxpayer and computed and recorded the amount of tax with respect thereto, and if the amount is found to be in excess of that originally declared on the return, whenever the commissioner shall have prepared a notice of tax assessment and mailed the same to the taxpayer. The notice of tax assessment shall be sent by mail to the post office address given in the return, and the record of such mailing shall be presumptive evidence of the giving of such notice, and such records shall be preserved by the commissioner.

Sec. 25. Minnesota Statutes 1978, Section 290.62, is amended to read:

290.62 DISTRIBUTION OF REVENUES. All revenues (~~except the bank excise tax imposed by section 290.361~~) derived from the taxes, interest, penalties and charges under this chapter shall, notwithstanding any other provisions of law, be paid into the state treasury and credited to the general fund, and be distributed as follows:

(1) ~~Except for refunds of bank excise tax imposed under section 290.361,~~ There shall, notwithstanding any other provision of the law, be paid from this general fund all refunds of taxes erroneously collected from taxpayers under this chapter as provided herein;

(2) There is hereby appropriated to the persons entitled to payment herein, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

Sec. 26. Minnesota Statutes 1978, Section 290.65, Subdivision 2, is amended to read:

Subd. 2. **TIME LIMITS EXTENDED.** The limitations of time provided by this chapter, as amended, relating to income taxes, and sections 271.01 to 271.20, as amended, relating to the tax court, for (a) filing returns, (b) paying taxes, (c) claiming refunds, (d) commencing action thereon, (e) appealing to the tax court from orders relating to income taxes, and (f) appealing to the supreme court of Minnesota from decisions of the tax court relating to income taxes, are hereby extended, with respect to each individual, for the period during which such individual is, or has been for any period commencing after December 7, 1941,

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continuously and for more than 90 days outside the United States, and for a further period of six months after his return to the United States.

Sec. 27. Minnesota Statutes 1978, Section 290.65, Subdivision 7, is amended to read:

Subd. 7. **TIME FOR ACTS; EFFECT OF APPOINTMENT OF PERSONAL REPRESENTATIVE, GUARDIAN.** The provisions of subdivision 2 shall not extend the time for performing any of the acts therein set forth beyond the expiration of three months after the appointment of a personal representative, or guardian, in this state, for any individual described therein except as provided in subdivision ~~45~~ 16.

Sec. 28. Minnesota Statutes 1978, Section 290.65, Subdivision 9, is amended to read:

Subd. 9. **TIME LIMITS, ADDITIONAL EXTENSION IN CERTAIN CASES.** The limitations of time provided by ~~sections 290.01 to 290.63, as amended, this chapter~~ relating to income taxes, and sections 271.01 to 271.20, as amended relating to the tax court, for (a) filing returns, (b) paying taxes, (c) claiming refunds, (d) commencing action thereon, (e) appealing to the tax court from orders relating to income taxes, and (f) appealing to the supreme court from decisions of the tax court relating to income taxes, are hereby extended, with respect to each individual, for the period during which such individual is or has been ~~continuously for any period beginning after December 7, 1941,~~ serving in the Armed Forces of the United States, or the United Nations, and for a further period of six months after the termination of such service, provided, that the ability of such individual to file the return, pay the tax or any part thereof, or any interest or penalty thereon, or to perform any other act described in this subdivision is materially impaired by reason of such service, but if an extension of time is granted, the fact that such individual's ability to pay was not impaired, shall not prevent the operation of the extensions of time herein provided. The commissioner may by regulation require the filing of a statement or affidavit or other proof, at the time the return or tax is due or other act is required to be done, stating the fact of inability to comply with the requirements of law because of service in the Armed Forces of the United States or the United Nations.

Sec. 29. Minnesota Statutes 1978, Section 290.65, Subdivision 13, is amended to read:

Subd. 13. **TIME FOR ACTS; EFFECT OF APPOINTMENT OF PERSONAL REPRESENTATIVE, GUARDIAN; ADDITIONAL EXTENSION.** The provisions of subdivision 9 shall not extend the time for performing any of the acts therein set forth beyond the expiration of three months after the appointment of a personal representative, or guardian, in this state, for any individual described therein except as provided in subdivision ~~45~~ 16.

Sec. 30. Minnesota Statutes 1978, Section 290.65, Subdivision 16, is amended to read:

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Subd. 16. **DEATH WHILE IN MILITARY SERVICE.** In the case of any individual who dies ~~on or after December 31, 1949,~~ while in active service as a member of the military or naval forces of the United States or of any of the United Nations, any income tax imposed under the provisions of ~~sections 290.01 to 290.63,~~ this chapter shall not be imposed with respect to the taxable year in which falls the date of his death, and such tax imposed for any prior taxable year which is unpaid at the date of his death (including additions to the tax, interest and penalties) shall not be assessed, and if assessed, the assessment shall be abated. In addition, upon the filing of a claim for refund within seven years from the date the return was filed, the tax paid or collected with respect to any taxable year beginning after December 31, 1949, during which such decedent was in active service shall be refunded.

Sec. 31. Minnesota Statutes 1978, Section 290.92, Subdivision 2a, is amended to read:

Subd. 2a. **COLLECTION AT SOURCE.** (1) **DEDUCTIONS.** Every employer making payment of wages ~~on or after October 1, 1964~~ shall deduct and withhold upon such wages a tax as provided in this section.

(2) **WITHHOLDING ON PAYROLL PERIOD.** The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.

(3) **WITHHOLDING TABLES.** Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during his taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under this chapter for that taxable year, upon his salary, wages, or compensation for personal services of any kind for the employer, and shall take into consideration the allowable deduction for federal income tax and the deduction allowable under section 290.09, subdivision 15, and the credits against the tax allowable under the Minnesota income tax act.

(4) **MISCELLANEOUS PAYROLL PERIOD.** If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(5) **MISCELLANEOUS PAYROLL PERIOD.** (a) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar

year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(b) In any case in which the period, or the time described in (a), in respect of any wages is less than one week, the commissioner, under regulations prescribed by him, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(6) **WAGES COMPUTED TO NEAREST DOLLAR.** If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.

(7) **REGULATIONS ON WITHHOLDING.** The commissioner may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

(8) **ADDITIONAL WITHHOLDING.** The commissioner is authorized to provide by regulation, under such conditions and to such extent as he deems proper, for withholding in addition to that otherwise required under this subdivision and subdivision 3 in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.

Sec. 32. Minnesota Statutes 1978, Section 290.92, Subdivision 5, is amended to read:

Subd. 5. **EXEMPTIONS.** (1) **ENTITLEMENT.** An employee receiving wages shall on any day be entitled to the following withholding exemptions:

(a) One exemption for himself;

(b) One additional exemption for himself, if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable a credit for the taxable year under section 290.06, subdivision 3(4) (a) or (c) for having attained the age of 65 before the close of such year;

(c) *One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to exist a credit for the taxable year under section 290.06, subdivision 3(4) (b) or (c) for being blind at the close of such year;*

(d) *If the individual is married, any exemption to which his spouse is entitled, or would be entitled, under subparagraph (a), (b) or (c), if such spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;*

(e) *One dependent exemption for each dependent as that term is defined in section 290.06, subdivision 3(3).*

(2) WITHHOLDING EXEMPTION CERTIFICATE. Every employee shall ~~on or before October 1, 1961, or before the date of commencement of employment - whichever is the later,~~ furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which shall in no event exceed the number to which he is entitled.

(3) EFFECTIVE DATE OF EXEMPTION CERTIFICATE. Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished. ~~Certificates furnished before October 1, 1961 shall be considered as furnished on that date.~~

(4) NEW EXEMPTION CERTIFICATE. A withholding exemption certificate which takes effect under this subdivision shall continue in effect with respect to the employer until another such certificate takes effect under this subdivision. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least 30 days after the date on which such new certificate is furnished.

(5) CHANGE OF NUMBER TO REFLECT NEXT TAX YEAR. If, on any day during the calendar year, the number of withholding exemptions to which the *employee may reasonably be expected to be entitled at the beginning of his next taxable year* is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such times as the commissioner may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this paragraph shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) CHANGE OF NUMBER. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee

shall, within ten days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) **FORM OF CERTIFICATE.** Withholding exemption certificates shall be in such form and contain such information as the commissioner may by regulation prescribe.

(8) Notwithstanding the provisions of this subdivision, an employee may elect to claim the same number of withholding exemptions that the employee claims for federal withholding purposes.

Sec. 33. Minnesota Statutes 1978, Section 290.92, Subdivision 13, is amended to read:

Subd. 13. **REFUNDS.** (1) Where the amount of the tax withheld at the source under subdivision 2a or subdivision 3 exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the employee taxpayer or imposed upon him by this chapter, the amount of such excess shall be refunded to the employee taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund ~~in accordance with the provisions of Extra Session Laws 1959, Chapter 57, Section 13 that amount~~. Where any amount of such excess to be refunded exceeds \$10, such amount shall bear interest at the rate of six percent per annum, computed from 90 days after (a) the due date of the return of the employee taxpayer or (b) the date on which his return is filed, whichever is later, to the date the refund is paid to the taxpayer. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the employee taxpayer within the purview of section 290.46.

(3) The commissioner of finance shall cause any such refund of tax and interest, to be paid out of the general fund in accordance with the provisions of section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Sec. 34. Minnesota Statutes 1978, Section 290.92, Subdivision 15, is amended to read:

Subd. 15. **PENALTIES.** (1) If any tax required to be deducted and withheld under subdivision 2a or subdivision 3, or any portion thereof, is not paid to

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or deposited with the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to ten percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid or deposited until paid. Where an extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate specified in section 270.75 from the date when such payment or deposit should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns or make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to wilful neglect, there shall be added to the tax in lieu of the penalty provided in paragraph (1) a penalty equal to ten percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, wilfully fails to withhold such a tax or make such deposits, files a false or fraudulent return, wilfully fails to make such a payment or deposit, or wilfully attempts in any manner to evade or defeat any such tax or the payment or deposit thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid or deposited by such employer on the basis of such false or fraudulent return or deposit) that should have been properly withheld and paid over or deposited with the commissioner. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) If any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6(8).

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(5) In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments or deposits to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return or make such a payment or deposit, shall be guilty of a gross misdemeanor.

(6) In lieu of any other penalty provided by law, except the penalty provided by paragraph (4), any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, who wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.

(7) Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or subdivision 3, shall be guilty of a misdemeanor.

(8) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

~~(10) The commissioner shall have power to abate any civil penalties prescribed in this subdivision when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general if the abatement exceeds \$500.~~

Sec. 35. Minnesota Statutes 1978, Section 290.93, Subdivision 5, is amended to read:

Subd. 5. **DATE REQUIRED.** (1) Declarations of estimated tax required by subdivision 1 from individuals other than farmers shall be filed on or before April 15 of each taxable year ~~beginning after December 31, 1961~~, except that if the requirements of subdivision 1 are first met

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(b) After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15 of the taxable year, or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

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(d) ~~If the requirements of subdivision 1 are first met prior to December 1, 1961, the declaration of estimated tax for the taxable year beginning after December 31, 1960, shall be filed on or before December 15, 1961, and 25 percent of the estimated tax shall be paid therewith.~~

(2) Declarations of estimated tax required by subdivision 1 from individuals whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in paragraph (1) be filed at any time on or before January 15 of the succeeding taxable year.

(3) An individual shall make amendments of a declaration filed during the taxable year, under regulations prescribed by the commissioner.

(4) If on or before January 31 (or March 1, in the case of an individual referred to in paragraph (2)) of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the commissioner

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(b) If the tax shown on the return is greater than the estimated tax shown in the declaration previously made or in the last amendment thereof, such return shall be considered as the amendment of the declaration permitted by paragraph (3) to be filed on or before January 15.

(5) The commissioner may grant a reasonable extension of time for filing the declaration and paying the estimated tax. Except in the case of a taxpayer who is outside the continental limits of the United States, no such extension shall be granted for more than six months.

Sec. 36. Minnesota Statutes 1978, Section 290.93, Subdivision 9, is amended to read:

Subd. 9. **OVERPAYMENT OF ESTIMATED TAX.** (1) Where the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of such installment payment, the overpayment shall be credited against the unpaid installments, if any. Where the total amount of the estimated tax payments plus (a) the total amount of tax withheld at the source under section 290.92, subdivision 2a or subdivision 3 (if any) and (b) and other payments (if any) exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the taxpayer or imposed upon him by this chapter, the amount of such excess shall be refunded to the taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund in accordance with the provisions of ~~Extra Session Laws 1959, Chapter 57, Section 13 that amount~~. Where any amount of such excess to be refunded exceeds \$10, such amount shall bear interest at the rate of six percent per annum, computed from 90 days after (a) the due date of the return of the taxpayer or (b)

the date on which his return is filed, whichever is later, until the date the refund is paid to the taxpayer. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the taxpayer within the purview of section 290.46.

(3) The commissioner of finance shall cause any such refund of tax and interest to be paid out of the general fund in accordance with the provisions of section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Sec. 37. Minnesota Statutes 1978, Section 290.931, Subdivision 1, is amended to read:

290.931 DECLARATIONS OF ESTIMATED INCOME TAX BY CORPORATIONS. Subdivision 1. **REQUIREMENTS OF DECLARATION.** Every corporation subject to taxation under this chapter (excluding ~~sections 290.931 and section 290.92~~) shall make a declaration of estimated tax for the taxable year if its tax liability so computed can reasonably be expected to exceed \$1,000.

Sec. 38. Minnesota Statutes 1978, Section 290.932, Subdivision 1, is amended to read:

290.932 TIME FOR FILING DECLARATIONS OF ESTIMATED INCOME TAX BY CORPORATIONS. Subdivision 1. **GENERAL RULE.** The declaration of estimated tax required of corporations by section 290.931 shall be filed as follows ~~(except that the declaration required for the first taxable year commencing after December 31, 1964, shall be filed in accordance with the provisions of subdivision 5)~~ :

If the requirements of section 290.931 are first met -	The declaration shall be filed on or before -
before the 1st day of the 3rd month of the taxable year	the 15th day of the 3rd month of the taxable year
after the last day of the 3rd month and before the 1st day of the 6th month of the taxable year	the 15th day of the 6th month of the taxable year
after the last day of the 5th month and before the 1st day of the 9th month of the taxable year	the 15th day of the 9th month of the taxable year
after the last day of the 8th month and before the 1st day of the 12th month of the taxable year	the 15th day of the 12th month of the taxable year

Changes or additions indicated by underline deletions by ~~strikeout~~

Sec. 39. Minnesota Statutes 1978, Section 290.936, is amended to read:

290.936 OVERPAYMENT OF ESTIMATED TAX. (1) Where the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of such installment payment, the overpayment shall be credited against the unpaid installments, if any. Where the total amount of the estimated tax payments and other payments, if any, exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the taxpayer or imposed upon him by this chapter, the amount of such excess shall be refunded to the taxpayer. If the amount of such excess is less than \$1, the commissioner shall not be required to refund. Where any amount of such excess to be refunded exceeds \$10, such amount shall bear interest at the rate of six percent per annum, computed from 90 days after (a) the due date of the return of the taxpayer or (b) the date on which his return is filed, whichever is later, until the date the refund is paid to the taxpayer. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the taxpayer within the purview of section 290.46.

(3) The commissioner of finance shall cause any such refund of tax and interest to be paid out of the general fund in accordance with the provisions of ~~sections 290.361 and~~ section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Sec. 40. Minnesota Statutes 1978, Section 290.97, is amended to read:

290.97 CONTRACTS WITH STATE; WITHHOLDING. No department of the state of Minnesota, nor any political or governmental subdivision of the state shall make final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor, until satisfactory showing is made that said contractor has complied with the provisions of section 290.92. A certificate by the commissioner of revenue shall satisfy this requirement. ~~The provisions of this section shall apply only to contracts executed after the effective date of Laws 1961, Chapter 213, Article 1.~~

Sec. 41. Minnesota Statutes 1978, Section 290.972, Subdivision 2, is amended to read:

Subd. 2. **EFFECT.** If a small business corporation makes an election under subdivision 1, then

(1) with respect to the taxable years of the corporation for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter, ~~section 290.031 excepted, and~~

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(2) with respect to the taxable years of a shareholder of such corporation in which or with which the taxable years of the corporation for which such election is in effect and, the provisions of section 290.973 shall apply to such shareholder.

Sec. 42. Minnesota Statutes 1978, Section 290.972, Subdivision 3, is amended to read:

Subd. 3. **WHERE AND HOW MADE.** (1) **IN GENERAL.** An election under subdivision 1 may be made by a small business corporation for any taxable year at any time during the first month of such taxable year, or at any time during the month preceding such first month. Such election shall be made in such manner as the commissioner shall prescribe by regulation.

In case of sickness, absence, or other disability, or when in the judgment of the commissioner good cause exists, he may upon application extend the time for making the election under subdivision 1 for not more than twelve months following the close of the taxable year for which the election is sought ~~÷ provided, however, that an application for an extension of time with respect to taxable years beginning after December 31, 1960 and prior to December 31, 1963 may be filed not later than December 31, 1965 .~~

Sec. 43. Minnesota Statutes, 1979 Supplement, Section 290A.03, Subdivision 3, is amended to read:

Subd. 3. **INCOME.** "Income" means the sum of the following:

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1976; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) additions to federal adjusted gross income as provided in Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a)(1), (a)(2), (a)(3), (a)(10), (a)(14), and (a)(15);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

(iv) dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security income, and veterans disability pensions), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

(vii) nontaxable interest received from the state or federal government or any instrumentality or political subdivision thereof;

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise. In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year ending in the calendar year. "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, Sections 101(a), 102, 117, and 121 as amended through December 31, 1978;

(b) amounts of any pension or annuity which was exclusively funded by the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) gifts from nongovernmental sources;

(d) surplus food or other relief in kind supplied by a governmental agency;

(e) relief granted under sections ~~273.012, subdivision 2~~ or 290A.01 to 290A.21; or

(f) *child support payments received under a temporary or final decree of dissolution or legal separation.*

Sec. 44. Minnesota Statutes, 1979 Supplement, Section 290A.03, Subdivision 13, is amended to read:

Subd. 13. **PROPERTY TAXES PAYABLE.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead before reductions made pursuant to section 273.13, subdivisions 6 and 7, but after deductions made pursuant to sections 273.132 and 273.135, in ~~1977~~ or any calendar year ~~thereafter~~. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are mobile homes as defined in section 168.011, subdivision 8, "property taxes payable" shall also include 23 percent of gross rent paid in the preceding year for the site on which the homestead is located, exclusive of charges for utilities or services. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue and his

decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable", the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable.

Sec. 45. Minnesota Statutes 1978, Section 290A.07, Subdivision 1, is amended to read:

290A.07 **TIME FOR PAYMENT.** Subdivision 1. Allowable claims filed pursuant to the provisions of ~~Laws 1975, Chapter 437, Article 4~~ chapter 290A shall be paid by the commissioner from the general fund.

Sec. 46. **REPEALER.** Minnesota Statutes 1978, Sections 290.06, Subdivisions 2b, 3a and 3b; 290.08, Subdivisions 4 and 5; 290.086; 290.087; 290.09, Subdivisions 11 and 20; 290.095, Subdivision 6; 290.31, Subdivision 28; 290.34, Subdivision 4; 290.361, Subdivision 4; 290.363; 290.45, Subdivision 2a; 290.49, Subdivision 9; 290.53, Subdivision 6; 290.65, Subdivisions 8, 14 and 15; 290.66; 290.68; 290.69; 290.93, Subdivision 12; 290.932, Subdivision 5; 290.95; 290.96; and 290.972, Subdivision 7 are repealed, provided that the repeal of these sections and the amendments made in section 1 of this act shall not affect any rights accrued or duties imposed by law upon the commissioner or upon the taxpayer prior to the effective date of this act.

Sec. 47. **EFFECTIVE DATE.** This act is effective the day after final enactment.

Approved March 31, 1980

CHAPTER 420—S.F.No. 1815

An act relating to commerce; providing for service of legal process on nonresident brokers and salespersons licensed to do business in Minnesota; amending Minnesota Statutes 1978, Section 82.31, Subdivision 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1978, Section 82.31, Subdivision 3, is amended to read:

Subd. 3. Service of process under this section ~~shall be made by delivering a copy thereof to the commissioner personally or by filing the same in his office, accompanied by one additional copy for each person so served and by the mailing by the commissioner of a copy thereof by certified mail, not later than three business days following the day of such service, to each person so served; may be made by filing a copy of the process with the commissioner or his representative, but is not effective unless:~~

Changes or additions indicated by underline deletions by ~~strikeout~~